

MAY 20 1976

MICHAEL RODAK, JR., CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM, 1975

No. **75-1681**

DUNCAN MILLER,

Petitioner,

v.

STAG OIL PRODUCERS, INC.,

Respondent.

**PETITION FOR A WRIT OF CERTIORARI,
to the WYOMING SUPREME COURT,
in its NO. 4627**

DUNCAN MILLER

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Petitioner Pro Se

(i)

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Duncan Miller petitions for a writ of certiorari to review the judgment of the Wyoming Supreme Court's negative decisions in denying a petition for writ of mandamus; or, in the alternative, for a writ of prohibition.

OPINIONS BELOW

The Wyoming Supreme Court made two orders; one filed January 7, 1976, dismissing the petition for technical errors; and, one filed January 21, 1976 denying the motion to correct the deficiencies in the petition. These orders are reprinted in Appendix A.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. Sec. 1257(3).

QUESTION PRESENTED

Whether petitioner can be deprived of due process of law?

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED

1. Wyoming Statute of Frauds, Title 16; United States Constitution, the Due Process clause of the 14th Amendment.

STATEMENT OF THE CASE

Stag, the respondent, filed an action (Civil Action No. 6447) in the Gillette, Wyoming District Court against the petitioner (defendant), wherein it alleged an oral agreement.

However, petitioner was unable to obtain from Stag any information concerning this oral agreement; moreover, he insisted that there was no such agreement . . . and, in addition, petitioner maintained such an agreement would be in violation of the Wyoming Statute of Frauds . . . Wyoming Contracts, Title 16.

The proceedings in this case have been horrendously multiplied and voluminous. Never has Stag answered or responded to the petitioner's above points of law.

Nevertheless, Stag secured a default judgment against petitioner, even though, also, he insisted the Rules of Wyoming Civil Procedure were not followed as to the summons — in that the summons was mailed but was received too late to answer, according to the terms of the summons. As to this wrongful and unlawful summons respondent Stag, again, has ignored said objections to the summons.

Further proceedings were had which were all similar to the foregoing in that hearings were held without adequate notice . . . and wrongful and unlawful writs of execution were, issued by the Sheriff of Laramie County — into the State of Colorado.

REASONS FOR GRANTING RELIEF TO THE PETITIONER

The statement of the case, as above outlined, is only a portion of the wrongdoing against the petitioner — who represented himself throughout the voluminous proceedings — while respondent was represented by one of the most influential, prestige counsel; in Wyoming.

Complaints were made to the Grievance Committee of the Wyoming Bar Association, but these complaints were treated frivolously.

In summation, the petitioner believes he has shown this Court that he has been deprived of "due process of law", pursuant to the "due process" clauses of the 5th and 14th Amendments to the United States Constitution; and, also important, pursuant to the United States Supreme Court Case Law holdings.

Constitutional law is certainly involved in this case; in *Betts v. Brady*, 316 U.S. 455, it was held that it was necessary to "appraise the totality of facts in a case." However, in petitioner's case this was not done.

It was held in *Anderson Nat. Bank v. Lockett*, 321 U.S. 233, that "an opportunity to be heard upon such notice of proceedings as are adequate to safeguard the right, is a fundamental requirement of due process of law". Again, in petitioner's case, this was never done. Therefore, it is believed that petitioner is entitled to an order granting the relief requested.

Respectfully submitted,

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Petitioner Pro Se

APPENDIX

[filed January 21, 1976]

IN THE SUPREME COURT,
STATE OF WYOMING
OCTOBER TERM, A.D. 1975

DUNCAN MILLER,
Petitioner
(Defendant below),

v.

STAG OIL PRODUCERS, INC.,
a Wyoming corporation,
Respondent
(Plaintiff below).

No. 4627

ORDER

The above-mentioned petitioner having filed an instrument entitled "Motion to Allow Petitioner to Correct the Deficiencies in His Petition," and the court having examined the same,

IT IS ORDERED that the said motion be and the same is hereby denied.

Dated this 21st day of January, 1976.

BY THE COURT:

/s/ Rodney M. Guthrie,
RODNEY M. GUTHRIE,
CHIEF JUSTICE

[Filed January 7, 1976]

* * * * *

ORDER

The above-mentioned Duncan Miller, having filed in this court an instrument entitled "Petitioner for Writ of Mandamus: Or, In the Alternative, For a Writ of Prohibition," and the court having examined the same and having determined that said petition is totally deficient and insufficient upon which any order in mandamus or prohibition might be issued, and it appearing that said petition for writ of mandamus is not duly verified by affidavit and is not brought in the name of the State upon the relation of said Duncan Miller (§ 1-879, W.S. 1957), and that insofar as the writ of prohibition is concerned it fails to "state in concise form the grounds upon which the application is made," and is in no manner verified (Rule 17, Rules of the Wyoming Supreme Court),

IT IS THEREFORE ORDERED that the petition be and the same is hereby dismissed and that the said petitioner take nothing thereby.

Dated this 7th day of January, 1976.

BY THE COURT:

/s/ Rodney M. Guthrie,

RODNEY M. GUTHRIE
CHIEF JUSTICE